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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**MAILED**

**SEP 05 2007**

Application Number: 09/941,252  
Filing Date: August, 29, 2001  
Appellant(s): CLARK ET AL.

**GROUP 3600**

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Leslie A Van Leeuwen, Reg. 42,196  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 15 May 2007 appealing from the Office action mailed 24 January 2007.

**(1) Real Part of Interest**

A statement identifying by name the real part of interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after non-final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

Herz US 6,460,036

Bayer US 6,311,190

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims: The ground(s) for rejection are reproduced below from the Non-final Office Action, mailed 24 January 2007, and are provided here for the convenience of both the Appellant and the Board of Patent Appeals:

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 1, 4, 8, 9, 12, 16, 17, 20 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz US 6,460,036 (hereinafter Herz)

Regarding Claim 1, Herz teaches:

**compiling a voter data list that includes a plurality of authorized voters;**  
column 48 line 27-30, a list of users may be compiled that includes a list of authorized users. The purpose of compiling the list is to sell it to companies who are wishing to conduct market research or voter research using the list of voters where the list has relevant demographic information.

**sending the voter data list to a mail forwarding service**

column 32 line 19-24, column 32 line 63-65, the list of authorized users (i.e. voters) is provided to the mail forwarding service, where the mail forwarding service restricts communication based on the specifications (i.e. requirements) of the individual users. See also Column 5 line 50-53, a list of target profiles of users is provided to servers (i.e. the proxy server of column 5 line 55-60) so that the anonymity of the person is maintained towards the other servers that match target objects with users.

**wherein the mail forwarding service sends one or more vote requests to one or more of the plurality of authorized voters;**

column 17 line 35-40, the users are presented with articles to review (i.e. target objects) in an active way. This solicitation is a vote request, because the users are being polled to express their preferences (i.e. voting).

Column 18 line 37-40, users are presented with information where active feedback is solicited (i.e. votes). The examiner interprets this passage to mean the user is receiving an electronic message from the forwarding server anonymously.

**receiving the electronic voting message from a client;**

column 18 line 37-40, users provide active feedback on items. The examiner interprets this feedback to be a voting message. –see also column 18 line 19-21, here the user is providing active feedback electronically, i.e. an electronic voting message.

**determining, based on the voter data list, whether the client is authorized to vote.**

Column 35 line 54-56, the pseudonym associated with an anonymous email is provided with a credential to validate that the message is authorized, i.e. the user is authorized to vote.

**in response to determining that the client is authorized to vote, performing the following:**

**removing an identity of the client from the electronic voting message, wherein the removing results in an anonymous message; and**

column 35 line 25-30, the identity of the clients is removed from the messages, between both users, to result in an anonymous message.

**identifying one or more votes in the anonymous message and**

Column 18 line 37-40, users are presented with information where active feedback is solicited (i.e. votes). The feedback produced would include one or more votes in the anonymous message.

Herz does not teach disregarding the electronic voting message in response to

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determining that the client is not authorized to vote, because the list of user's target profile summaries (i.e. the list of authorized voters) by definition does not include users who are unauthorized users.

Herz's invention is designed to provide for authorization and security by validating the identity of users who are communicating messages. This functionality is provided using cryptographic techniques and a proxy server to validate the identity of a user as a part of ensuring anonymity of that user in processing their feedback to other servers.

However, the practice of disregarding a message or communication because it is not authorized is old and well known in the art, because the validation of authorization prevents unauthorized users from communication. This practice enhances security because it prevents the abuse of the system (e.g. hackers or spam).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding providing for pre-authorization of users and validating that identity before forwarding their electronic voting message, to include the step of disregarding their message if they were determined not to be authorized, because it would prevent unauthorized users from communicating and thus enhance network security.

Regarding **Claim 4**, Herz discloses:

**wherein the determining further comprises: retrieving the identity of the client; and comparing the identity of the client to one or more of the plurality of authorized voters retrieved from the voter data list.**

Column 36 line 45-50, the identity of the user (i.e. their pseudonym) is stored in a data record with a random binary number to validate the pseudonym.

Column 35 line 23-27, the registry of validated pseudonyms allows users (i.e. clients) to communicate with information providers and vendors; i.e. an electronic message from a user is determined to be authorized based on comparing it to the one or more plurality of authorized pseudonyms (i.e. authorized voters) retrieved from the registry (i.e the voter data list).

Regarding **Claim 8**, Herz discloses:

**wherein the electronic message is selected from the group consisting of a phone-in message, a private client email message, a public client email message, a hypertext transfer protocol message, a computer network message, an Active X message, and a Java message.**

Column 35 line 20-25, the anonymous message is an email message.

Column 18 line 38-40, the articles shown to a user for feedback generate an electronic message. Since the articles are presented to the user in the context of their using the internet, the examiner interprets the articles that are presented to be in html form, with the active feedback described to also be in html form.

**Claims 9, 12, 16, 17, 20 and 24** recite limitations similar to those addressed by the rejection of **Claims 1, 4 and 8** above, and are therefore rejected under the same rationale.

17. **Claims 3, 5, 11, 13, 19 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Herz US 6,460,036** (hereinafter Herz)

Regarding **Claim 3**, Herz teaches providing for voting via an anonymous proxy server and screening messages, including votes and request for votes between users and requesters (see also column 63 line 54-56), but does not teach:

**sending a confirmation message to the client, the confirmation message including a summary of the determination.**

However, providing confirmation messages regarding a summary of a determination is old and well known in the art of communication. This provides for the user to receive notification (i.e. provide assurance) that their message has been received.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding soliciting and receiving anonymous feedback from users, to include the step of providing a confirmation message to those

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users who provided feedback, so the user would receive assurance their message had been received.

Regarding **Claim 5**, Herz discloses wherein freeform comments may be extracted from forum posts (see column 62 line 34-37) and where, as noted above, users may provide active feedback and voting regarding specific items, Herz does not teach where the vote includes a freeform comment as per:

**wherein one of the votes includes a freeform comment**

However Official Notice is taken that using freeform comments as part of surveys and voting is old and well known in the art. Freeform comments in a survey allow the user to provide additional feedback beyond what is actually covered in the survey and thus provide useful additional feedback.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding soliciting and receiving anonymous feedback from users, to include the step of providing a freeform comments in voting feedback from a user, because it would allow the user to provide useful additional feedback beyond what is covered in the survey.

**Claims 11, 13, 19 and 21** recite limitations similar to those addressed by the rejection of **Claims 3 and 5** above, and are therefore rejected under the same rationale.

18. **Claims 6, 7, 14, 15, 22 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz US 6,460,036 (hereinafter Herz) in view of Bayer US 6,311,190 (hereinafter Bayer).

Regarding **Claim 6**, Herz teaches users providing feedback on articles and that the feedback can be used in voter research, however Herz does not teach counting votes as per:

**modifying a total number of votes, the modifying further including: adding the one or more votes to the total number of votes.**

Bayer teaches:

**modifying a total number of votes, the modifying further including: adding the one or more votes to the total number of votes.**

Column 3 line 7-13, one or more votes is added to the total number of votes in the course of conducting a survey.

Both Bayer and Herz address obtaining active feedback (i.e. voting) from users and thus both Bayer and Herz are analogous art.

Bayer teaches that summing votes electronically as they are received allows users to immediately see the results from their voting, which increases the survey participant's satisfaction (column 1 line 35-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding soliciting and receiving anonymous feedback from users, to include the step counting a total of votes as the votes are received from users, as taught by Bayer, because it would increase the survey participant's satisfaction.

Regarding Claim 7, Herz does not teach:

**sending the total number of votes to a receiving server, wherein the receiving server is adapted to include the total number of votes with other received votes.**

Bayer teaches:

**sending the total number of votes to a receiving server, wherein the receiving server is adapted to include the total number of votes with other received votes.**

Column 3 line 7-9, the network server (i.e. a receiving server) receives the votes to include the total number of votes with other received votes (in this case the other received votes are votes from other countries used to create a histogram for comparing each country's vote with each other).

Both Bayer and Herz address obtaining active feedback (i.e. voting) from users and thus both Bayer and Herz are analogous art.

Bayer teaches that summing votes electronically as they are received by on a country by country basis (i.e. other received votes) allows users to compare their results with voters from other countries (column 3 line 10-15).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding soliciting and receiving anonymous feedback from users, to include the step of including the total number of votes with other received votes as taught by Bayer, because it would allow the voting participant to compare their results with voters from other countries via a histogram.

**Claims 14, 15, 22 and 23** recite limitations similar to those addressed by the rejection of **Claims 6 and 7** above, and are therefore rejected under the same rationale.

**(10) Response to Argument**

1. The applicant argues with respect to Claims 1, 9 and 17 on page 9 that Herz does not teach compiling a list that includes a plurality of authorized voters.

The examiner respectfully disagrees.

Herz teaches in column 5 line 50-53 that a list of users' target profile summaries is provided to relevant servers for the purposes of contacting them for various purposes,

including soliciting feedback. This list is essentially a list that includes authorized voters, because it represents users that will be solicited for feedback.

2. The applicant argues with respect to Claims 1, 9 and 17 on page 9 and 10 that Herz does not teach sending vote request to one or more authorized voters.

The examiner respectfully disagrees.

Herz teaches soliciting active feedback, where the user is asked to express their preference in regards to providing feedback about target objects. These target objects can be anything of interest to the user that can be transmitted over the internet (see column 6 line 23-27 as to descriptors for target objects, including stories, movie descriptors, prices of products – also column 5 line 9-12 for some typical target objects). The users are asked to provide ratings or feedback on the target objects, i.e. the user is sent a vote request (see column 18 line 38-40). This feedback can be displayed to the user as the user selects a rating for the object (see column 18 line 18-24). The expressing of a preference, i.e. a vote, by a user in response to a request is thus fully taught by Herz. This expressing is ‘voting’ because the user is expressing a preference for a particular target object.

3. The applicant argues with respect to Claims 1, 9 and 17 on page 10 that Herz does not teach sending a voter data list to a mail forwarding service.

The examiner respectfully disagrees.

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Herz teaches a proxy server (see column 5 line 54-58) which acts as a mail forwarding service to protect the identity of users that are sending and receiving messages from servers that are presenting target objects to the user.

4. The applicant argues with respect to Claims 1, 9 and 17 on page 11 and 12 that Herz does not teach determining whether the user is authorized to vote.

The examiner respectfully disagrees.

Herz teaches that users of the system who are attempting to provide feedback have their electronic credentials checked to ensure that the message is from someone who is authorized to provide feedback (i.e. vote) – see column 35 line 54-56 and column 35 line 30-35. Column 36 line 23-36 discusses users who have their pseudonyms validated, i.e., they are authorized to communicate through the proxy server, including to send active feedback (i.e. voting messages).

5. The applicant argues with respect to Claims 1, 9 and 17 on page 12 that Herz does not teach where the message received from the user is anonymous.

The examiner respectfully disagrees.

Herz teaches in column 5 line 55-60 that the proxy server removes the identity of the message from the user so that the true identity of the user is protected. The user is anonymous because a pseudonym is the only way that they are identified. Further evidence that users of the system are anonymous with respect to their identity is provided in that Herz teaches in column 5 line 60-65 that users can receive rewards for

providing their identity to specific marketers or advertisers. If their identity is hidden before and they can choose to reveal it to receive a reward from an advertiser, previously their messages must have been anonymous because their true identity was concealed.

6. The applicant argues with respect to Claims 1, 9 and 17 on page 13 that Herz does not teach disregarding a voting message in response to determining that a client is not authorized to vote.

The examiner respectfully disagrees.

This limitation is addressed by the Official Notice taken. Since this Official Notice was not traversed, it is taken to be admitted prior art.

7. The applicant argues with respect to Claims 3, 5, 11, 13, 19 and 21 on page 15 that Herz does not teach sending a confirmation message in response to the determination. This argument hinges on the logic that since Herz does not teach a determination, it can't teach sending a confirmation.

The examiner respectfully disagrees.

However, as discussed above, Herz' teachings require a determination because the proxy server system requires determining who a message is coming from in order to process it and forward it successfully.

8. The applicant argues with respect to Claims 5, 13 and 21 on page 15 that Herz

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does not teach using a freeform comment.

The examiner respectfully disagrees.

However, as discussed above, Herz clearly teaches soliciting feedback (i.e. votes) from various users regarding target objects. The target objects can be anything available on the internet that is of interest to a user. Official Notice was taken that feedback (i.e. votes or an individual vote) in surveys can include a freeform comment, since it is known in the art that surveys include solicitation of freeform comments.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



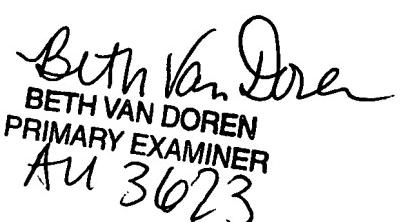
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